



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,422	05/22/1998	SCOTT CLARE	016325-00221	3984

21586 7590 10/29/2004

VINSON & ELKINS, L.L.P.  
1001 FANNIN STREET  
2300 FIRST CITY TOWER  
HOUSTON, TX 77002-6760

EXAMINER
----------

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
----------	--------------

3612

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/083,422  
Filing Date: May 22, 1998  
Appellant(s): CLARE ET AL.

MAILED

OCT 29 2004

GROUP 3600

---

Timothy S. Corder  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6/24/2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 10/18/2004 has been entered.

In response to the examiner's indication of certain inconsistencies in the claims on appeal, the appellant amended the claims to remove the inconsistencies.

In addition, the IDS of 3/29/2004 has been entered.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims on appeal do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Art Unit: 3612

**(8) Claims Appealed**

A substantially correct copy of appealed claims appears on pages 20-25 of the Appendix to the appellant's brief. The minor errors are as follows with line numbers referring to the claim appendix:

“at least one of” has been deleted at:

Claim 49, line 2 from the end;

Claim 98, line 1;

Claim 99, line 1.

“panels” is changed to --panel-- at:

Claim 49, line 2 from the end;

Claim 98, line 2;

Claim 99, line 2.

“contoured” is deleted at:

Claim 85, line 3 from the end.

“or” is changed to --and-- at:

Claim 86, line 2.

The above changes were entered in the amendment of 10/18/2004.

**(9) Prior Art of Record**

Des. 230,351	Hamel	2-1974
Des. 143,990	Powers	2-1946
3,068,038	Douglass, Jr.	12-1962
5,709,309	Gallagher et al.	1-1998

4,194,782	Itoh	3-1980
5,498,048	Shelby, Jr.	3-1996

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 49-56, 58, 60, 85-86, 89, 92, 93, 98-99, 101, 105, 106, 108, 109, 111, 113 are rejected under 35 U.S.C. 103 as being unpatentable over Hamel in view of either Powers or Douglass, Jr. This rejection is set forth in a prior Office Action, mailed on 7/28/2003.

Claims 59 and 88 are rejected under 35 U.S.C. 103 as being unpatentable over Hamel in view of either Powers or Douglass, Jr. and Gallagher et al.. This rejection is set forth in a prior Office Action, mailed on 7/28/2003.

Claim 91 is rejected under 35 U.S.C. 103 as being unpatentable over Hamel in view of either Powers or Douglass, Jr. and Itoh. This rejection is set forth in a prior Office Action, mailed on 7/28/2003.

Claims 61-62, 64-73 are rejected under 35 U.S.C. 103 as being unpatentable over Hamel in view of either Powers or Douglass, Jr., optionally in view of Shelby, Jr.. This rejection is set forth in a prior Office Action, mailed on 7/28/2003.

**(11) Response to Argument**

Appellant's arguments are substantially four fold. They are treated in order:

**1) The appealed claims do not physically separate driver's and passenger compartments.**

The claims state: ...“a driver compartment and a cargo area disposed to the rear of the driver compartment within a contiguous enclosure”, claim 49, and “...a driver's compartment

Art Unit: 3612

and a rear compartment contained within the same enclosure”, claim 85. As seen in particularly figure 3 of Hamel, Hamel conceived of a driver’s compartment and cargo area within the same or contiguous enclosure. “Contiguous” is read as “in close proximity or near”, Random House College Dictionary, 1980. The claims are open ended as to any physical barrier between compartment and area and as a result, the argument is deemed invalid.

**2) The appealed claims have contoured, aligned or outwardly bowed side panels.**

The claims state: “the storage area being defined by at least a portion of an outwardly bowed exterior side panel”, claim 49, “the enclosure is bounded by exterior, contoured side panels”, claim 61, “the side panels of the rear compartment are substantially aligned with the driver’s compartment”, claim 85. “Bowed” is read as “bent or curved” and “contour” is read as “the outline of a figure or body”, Random House College Dictionary, 1980. Once again, appellant seems to be misreading the reference as a bow or bent side panel is clearly shown in figures 1-4 of Hamel, clearly defining an outline of the body, and alignment of driver’s compartment and cargo area is also clearly shown in figures 1, 3, 4 of Hamel.

**3) The appealed claims define a patentable distinction in the amount of intrusion of the storage area into the cargo area, relative the wheel well intrusion into this area.**

The claims state: “the storage area extends into the cargo area no further than the wheel well extends into the cargo area”, claim 49, “at least one storage area....extending into the enclosure of the vehicle no further than the wheel well extends into the enclosure”, claim 61, and “the width of the storage area is not greater than the width of the wheel well”, claim 85. The storage area of Hamel, at least at upper areas thereof, extends into the cargo area a greater extent than does the wheel well of Hamel. This detail is shown in figure 2 of Hamel, wherein the wheel

Art Unit: 3612

wells extend just past the inner edges of the opened doors. However, the secondary references to either Powers or Douglass, Jr. teach, respectively that a smaller extension of a storage are into the cargo area was known in this art prior to the invention of appellant, respectively less extension in Powers and equal extension in Douglass, Jr.. As a result, one of ordinary skill in the art would have known to size the storage area appropriately for the size of cargo to be contained both within the storage area and between opposite side wall storage areas in the center of the cargo area.

**4) The appealed claims 59, 88, 91, 61, 62, 64-73 are patentable in view of their limitation combinations respectively.**

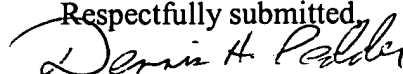
These claims are minimally argued as to patentability, but appellant has chosen to set forth a separate argument for issues 2-4 based on the arguments for issue 1 in combination with the limitations for claims 58/88, issue 2, claim 91, issue 3, and claims 61-62, 64-73, issue 4.

Rationale for combining references to reject these claims is fully set forth in the final rejection, incorporated by reference.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3612

Respectfully submitted,



Dennis H. Pedder

Primary Examiner

Art Unit 3612

10/27/04

DHP

October 27, 2004

Conferees

LM *LDM*

GD *DHD*

SG *MD*

VINSON & ELKINS, L.L.P.  
1001 FANNIN STREET  
2300 FIRST CITY TOWER  
HOUSTON, TX 77002-6760